

March 1, 2004

David McKay
Conservation Operations Division
U.S. Department of Agriculture (USDA)
Natural Resources Conservation Service (NRCS)
P.O. Box 2890
Washington, DC 20250

RE: CSP Proposed Rule

Send to: david.mckay@usda.gov; Attn: Conservation Security Program

Dear David:

The USA Rice Federation is the national advocate for all segments of the rice industry, formed by three charter members: The USA Rice Producers' Group, the USA Rice Millers Association, and the USA Rice Council.

USA Rice producer members in Arkansas, California, Louisiana and Missouri produce more than 80 percent of America's rice crop. Mill membership encompasses independent rice mills and farmer-owned cooperatives, with members located in Arkansas, California, Florida, Louisiana, Mississippi, Missouri, and Texas. Associate members include exporters, shippers and other businesses allied with the rice industry.

The USA Rice Federation appreciates the opportunity to comment on the proposed rule for the Conservation Security Program (CSP). We remain excited about the potential for the program and feel that many rice producers deserve rewards for their ongoing environmental stewardship. Rice producers have a rich history of addressing multiple resources of concern. In the course of maintaining an aquatic crop, many rice practices conserve soil, assist in water quality objectives and provide critical habitat for hundreds of wetland-dependant species. Considering these contributions, and other beneficial practices suitable for rice agriculture, we have supported the development of working lands conservation programs that recognize benefits on productive agricultural lands. While the proposed CSP is not as extensive as we had hoped, we stand ready to work with you to make this program a long-term success.

While we have some focused comments to convey, we recognize the limitations placed upon your agency as you developed this proposal. Please know that we make these suggestions and comments in the most sincere attempt to assist NRCS in developing the best rule possible in light of the fiscal challenges you face. It is apparent that NRCS staff has spent considerable time and effort to develop the proposed rule. We appreciate your hard work in this regard.

Eligibility

Unfortunately, most of our producer members are concerned that this program, in the proposed form, will not be accessible to them in the foreseeable future. The eligibility requirement limiting contracts to specific watersheds, at present, is somewhat confusing and undefined. While the likely intent of this provision is to reduce expenditures, the unfortunate result could be reduced grassroots support across the agriculture community for this new program. The initial impression from most producers will be that the program is too complicated and provides too little financial incentive to make application.

Having said this, the USA Rice Federation encourages NRCS to further clarify and simplify eligibility procedures for enrollment in CSP. The statute provides for a national program and we support the national approach. However, if eligibility must be restricted, then NRCS should ensure that the individual watersheds chosen in initial signups are geographically diverse in order that multiple regions, specifically rice growing states, have an opportunity to participate and evaluate effectiveness of CSP. An appropriate approach could be to include an adequate number of watersheds each year to provide opportunity for all producers, nationwide, to apply for the program within a five-year period.

We further believe that NRCS should allow maximum flexibility for your state offices to address the most appropriate conservation practices and enhancements.

Ag Operation Definition

The definition of an agricultural operation is our most problematic issue. The requirements that a contract application must include all lands that a producer has under "cohesive management" and the requirement that an applicant must have control of the land for the life of the contract will likely prove to be a challenging hurdle, especially when applied to diverse operations.

The term "cohesive management" is too broad of an eligibility requirement. Application of conservation practices and enhancements on operation with multiple landlords dictates that operators should have the flexibility to have separate contracts by FSA farm numbers. This would be consistent with other farm programs. In addition the proposed requirement stating that no payments will be made on the portion of an operation for which the operator does not have contract-life control, but further requires such land to be maintained at the same conservation standard as the rest of the operation is arbitrary and unfair.

Most land rental contract arrangements in rice states are on an annual basis. FSA farm program provisions allow for succession of interest from one tenant to another if qualification is continued. Such a process would also be applicable for CSP. Therefore a requirement of an operator having control of the operation for the entire length of the contract is unnecessarily restrictive. The provision under contract medications that allow contracts to be transferred if all parties agree would seem consistent with this argument.

It would seem appropriate to modify the proposed rule to provide for a process that would allow a five- to ten-year contract to survive changes in landlord-tenant situations provided certain procedures are followed. Most notably, a tenant may have to agree, in writing, to uphold the terms of an existing CSP contract when considering taking over a certain piece of farm ground.

Considered Planted Language

As we have previously communicated, the lack of inclusion of the "considered planted" language in the overall 2002 Farm Bill has resulted in a significant disincentive for producers to set ground aside for habitat development purposes. Previous farm bills protected future farm bill support on that type of ground by allowing it to be "considered planted" because it was set aside for conservation purposes. Without this protection, growers are now less likely to risk their farm bill benefits to develop such habitat. However, the term "considered planted" still appears in the CSP statutory provisions of the 2002 Farm Bill. This provides the basis of a remedy that we would like to propose.

Your CSP proposal contains two definitions that are intimately related to the "considered planted" definition dilemma described above. In Section 1470.3 (Definitions), NRCS has very appropriately defined "considered planted" (page 85) and also provides a critically related definition of the term "resources conserving crop rotation" (page 91). We strongly recommend that you add the following language (or similar language) as a second sentence to those definitions:

Land used for this purpose shall be eligible for future updates of both crop yield and base acreage in accordance with Title I (Commodity Price Support) provisions of future agricultural farm support legislation.

Technical Assistance

While we recognize the Department is limited by statute regarding resources allocated to technical assistance, the USA Rice Federation is concerned that the limitation on technical assistance will further frustrate applicants. It appears that well-trained 3rd party technical providers who have sufficient authority for eligibility determination will be critical to success of the CSP. While we support amendments to alleviate this constraint on NRCS technical assistance, we appreciate the carefully crafted approach in the CSP proposal designed to limit the expenditure of NRCS technical resources on applications that cannot reasonably be funded due to fiscal constraints. In lieu of an appropriate remedy provided by Congress, we would support NRCS's current proposal to direct their 15 percent technical assistance budget to a number of project applications that can reasonably be funded.

State Flexibility

Establishment of enrollment categories and sub-categories on the surface is particularly confusing. If such criteria are used, NRCS must define and publicize in laymen's terms how such criteria can be met. Again, flexibility should be given to NRCS state officials to address state and regional priorities. Such flexibility should also be applied to funding

priorities. Rather than a rigid top-down funding priority, State NRCS officials should have latitude to distribute funding to address diverse geographic issues as needed, particularly in large states. This would seem of greater importance in the initial stages of CSP to demonstrate widest application to producers while still maintaining high levels of conservation maintenance and enhancement.

Payment Structure

The proposed payment structure appears to place an appropriate emphasis on enhancement practices. We applaud the Agency's proposed payment structure and agree with the stated goal of rewarding the best and motivating the rest.

Signup Procedures

The signup procedures will appear complicated and daunting to most producers. NRCS must be able to educate eligible producers on how to proceed through the application process, especially the self-screening questionnaire. The availability of as much of this process electronically will be beneficial. Periodic signups appear to be a practical approach to participation in order to adjust to changes in available funding.

In closing, the USA Rice Federation appreciates the opportunity to comment on the proposed rule for the new Conservation Security Program. We hope that you will contact Ben Noble at 703-236-2300 or bnoble@usarice.com if we can be of any assistance or if you have further questions about our recommendations.

Best regards,
Al Montna
Chairman
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FAX

To: David McKay From: Karen Berky - Dir. GR
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Phone: Phone: 703-841-4834
Re: CSP Comments Date: March 2, 2004

Urgent

For Review

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● Comments:



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Dear Mr. McKay

I am writing to express The Nature Conservancy's (Conservancy) strong support for the Conservation Security Program (CSP). The Conservancy appreciates the opportunity to comment on the proposed regulation to implement the CSP. The CSP has the potential to become the preeminent USDA conservation program. Therefore, the initial implementation of the program is critical to ensure broad based support and to achieve meaningful conservation on the ground. Below are the Conservancy's comments on USDA's proposed approach.

A Capped Entitlement

The preamble to the proposed regulation goes to great lengths to describe the dilemma faced by USDA – how to implement an entitlement program when spending is capped. The alternatives discussed and the features proposed by the Natural Resource Conservation Service (NRCS) to deal with this unusual problem now appear to be overtaken by events. While CSP has an annual spending cap for FY 2004, a total spending cap over the life of the program's authorization no longer applies. Indeed, outside of FY 2004, CSP spending is no longer capped. Because of this significant programmatic change, we suggest that the final rule establish the program as a national entitlement consistent with congressional intent.

Participation should not be limited

NRCS proposes to announce sign-up periods for CSP similar to the Conservation Reserve Program (CRP). Unlike CRP, CSP does not require bids nor is funding capped beyond FY 2004. We strongly urge NRCS to establish the program guidelines for CSP and to allow all farmers who are eligible to apply for a contract at any time they so desire.

The Conservancy recognizes that the 15 percent limitation on technical assistance presents a problem for NRCS under a continuous enrollment approach. To address this problem, we suggest that NRCS simplify the application process and move away from the traditional USDA approach of assisting farmers prior to and during the application periods. Farmers are savvy business operators and fully capable of determining if they meet program guidelines and developing benchmark condition inventories without NRCS assistance.

Moreover, if NRCS moves to a continuous enrollment it no longer needs to target watersheds, or to create "enrollment categories." How watersheds will be picked or how enrollment categories will be defined are not described within the proposed regulation and leave many unanswered questions.

If NRCS determines it must limit sign-up, the Conservancy does support targeting watersheds using the enhancement payment language found at 1470.23(d). The approach would reward producers who are already doing good on-the-ground management – making only good stewards eligible for the program. Not only does this financially reward good stewards, it also sends a message to the poor stewards: *if you want to enjoy financial reward, you will have to change your practices.*

NRCS must recognize that neighboring farms may be treated differently under the proposed targeted implementation approach. Depending on whether the farm resides in the watershed will result in winners and losers and inequitable treatment among neighboring farmers is not good long-term national policy. The Conservancy does not support the creation of "enrollment categories" since these will clearly result in inequitable treatment of neighboring farms and will work to undermine CSP over the long-term.

State flexibility is lost in the proposal

The regulation appears to remove the flexibility of States to set priorities and make program adjustments consistent with other NRCS administered programs. Many of the limitations on eligibility are set at the National level. Targeting watersheds may result in the water-poor West receiving fewer funds than would occur under a non-water based allocation system. Again, the Conservancy supports allowing the States through the enhancement payment authority to set priorities and target limited funds if necessary.

The application process needs to be simplified

As proposed, the application process for the program is onerous. An NRCS announcement, enrollment requirements, eligibility screening, a "benchmark condition inventory," a tier assessment, a CSP plan, a contract, implementation of activities, and annual monitoring. This process will sound like a foreign language to farmers and it unnecessarily creates demand for technical assistance. NRCS must carefully weigh whether the well-intentioned *process* of limiting enrollment is worth the potential alienation of the good stewards and the expenditure of scarce technical resource funds. As it is proposed, the process is unnecessarily complex, especially since the program is no longer capped.

Adequate base payments are critical

The proposed base payment factor in section 1470.23(a)(2)(v) of ".1" is not realistic. NRCS has stated in its CSP promotional material that: *"In short, CSP should reward the best and motivate the rest."* Clearly this will not happen if the base payment is set too low. A Tier I farmer could expect less than \$1 dollar an acre under this approach. The Conservancy's estimate for Tier I payments in the eastern corn belt is a minimum of \$5 - \$8 an acre as a base payment. At this

level farmers may consider making meaningful changes in production practices that produce societal conservation benefits.

It is the Conservancy's opinion that a sufficient base payment is critical if NRCS desires widespread enrollment in CSP and continuation of conservation practices overtime. Sustained, long-term behavioral changes are needed to achieve conservation benefits. If NRCS intends to reward or motivate farmers over the long-term, it must raise the base payment factor to at least .5 and preferably not include a factor at all.

Cost share must equal other NRCS programs

If CSP cost share rates are not equal to other NRCS administered programs such as EQIP, adequate participation will not be achieved.

Enhancement payments should be a priority

Section 1470.23(d) outlines the enhancement payment component of CSP. The Conservancy submits that this process should be the primary vehicle for NRCS to deliver CSP when its spending is capped. The enhancement payment authority provides State Conservationists with the ability to tailor CSP resources best within their State. Granting the States the ability to tailor the CSP will allow broader participation and more local input.

Possible unfair treatment of operators who rent or share crop

Section 1470.5(a)(3) stipulates that applicants must "have control of the land for the life of the proposed contract period." Control is not defined by the regulation and therefore its meaning is uncertain. If land is not under the operator's control it is not eligible, however section 1470.5(a)(3)(iii) requires such land to be considered part of the contract and to be maintained at the same conservation standard as the rest of the operation even if it is not under the applicant's control. The minimum contract period is five years. Most farmers who cash rent or sharecrop do not enter into five year agreements. Requiring them to meet standards without receiving payments is not acceptable. This provision should be changed so that renters and sharecroppers are not unfairly treated under CSP.

Eight digit watersheds is not the right level

Under the FY 2004 funding level we agree that targeting is required. But we want to see the program expanded as soon as possible to include all eligible lands and producers consistent with Congressional intent. Currently the proposed 8-digit watershed areas should be considered a maximum sized area and the rule should allow for priority areas to be less than 8-digit as well. Along with the proposed selection criteria, we encourage the use of threatened and endangered species and habitats as additional criteria for the selection process. Moreover, the requirement that 75% of the producers participate in a watershed before an enhancement payment can be made will limit eligibility at an 8-digit watershed level. For example, in Montana on two forks of a small watershed, invasive weed management is being carried out on over 55,000 acres due to a cooperative community/agency effort. Nowhere near 75% of producers in the 8-digit watershed

are participating, but the private land that is being treated is near the headwaters of the Missouri, harbors grizzly bear, imperiled grassland birds, and the full array of species that Lewis and Clark found in 1805, with the exception of wild bison. These landowners epitomize the group of farmers who should participate in CSP and they should be rewarded for their work. Our experience is that expecting 75% participation is unreasonable at such a large scale level, especially for a new program.

The Conservancy believes that CSP can be the premier agricultural conservation program of the future. We appreciate your consideration of our comments and look forward to working with you as you implement this important program. Thank you.

Sincerely

Karen S. Berky

Karen S. Berky
Director of Government Relations